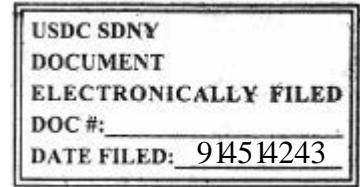


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



Thomas P. Koestler,

Petitioner,

—v—

Martin Shkreli,

Respondent.

16-cv-7175 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

The Court has reviewed the parties' submissions on the appointment of a receiver and the form of an appointment order.

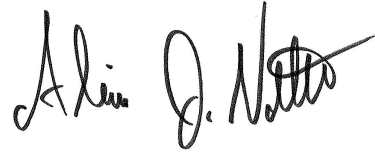
The Court will appoint Daniel R. Alonso as a receiver. The Court has no doubt that both individuals proposed by the parties could ably discharge the duties of a receiver in this case and would act with integrity and without bias. However, because Mr. Koestler's proposed receiver, Sundar Kodiyalam, has a prior relationship with Mr. Koestler, the Court is inclined to appoint Mr. Alonso to avoid any appearance of favoritism. Mr. Alonso's long history as an officer of the court and experience as a receiver qualifies him to perform this role even though he lacks transactional experience in the pharmaceutical industry.

The Court agrees with Mr. Koestler on the substantive terms of the appointment order, including authorization for the receiver to retain counsel as needed and the fee structure proposed. It is the Court's view that the fee structure in Mr. Koestler's proposed order, with the receiver to receive a commission up to 5% of the amounts disbursed upon further application to the Court without a predetermined hourly fee or retainer, best aligns the receiver's incentives with the purpose of the receivership and comports with N.Y. C.P.L.R. § 5228.

The parties shall confer in good faith on a proposed receivership order consistent with this order and shall submit a proposed order by July 27, 2021.

SO ORDERED.

Dated: July 23, 2021  
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", written over a horizontal line.

ALISON J. NATHAN  
United States District Judge